

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Joseph E. Tiraco,

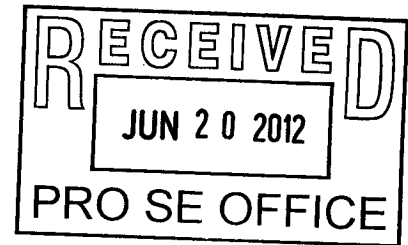
Plaintiff,

**AMENDED
COMPLAINT**
12-CV-2273 (KAM) (MDG)

-against-

New York State Board of Elections,
Board of Elections in the City of New York.

Defendants.



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I. Parties:

Plaintiff Joseph E. Tiraco, resides at 69-43 Trotting Course Lane, Rego Park NY 11374.

Defendant New York State Board of Elections, resides at 40 North Pearl Street, Suite 5, Albany, NY 12207.

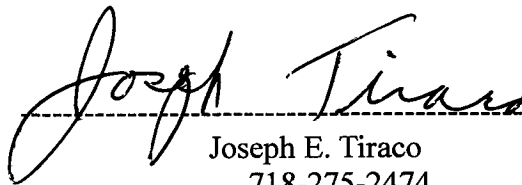
Defendant Board of Elections in the City of New York resides at 32 Broadway, New York, NY 10004.

II. The Jurisdiction of the Court is invoked pursuant to 42 U.S.C. § 1983

III. Statement of Claim. The New York State Board of Elections failed to responsibly administer fair campaign codes and practices, violating my voting rights and civil rights. The Board of Elections in the City of New York failed to share important information needed to satisfy the minimum threshold requirement to place my name on the ballot for, REPRESENTATIVE IN CONGRESS, 6th Congressional District, Queens County, State of New York.

IV. Remedy. Reduce the threshold requirement 15% to 25% to compensate for the deficit caused by the information withheld by the New York State Board of Elections and their local affiliate, and restore my name to the Independence Party ballot. Punitive damages of one million dollars.

Jr June
May 20, 2012
Date


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Joseph E. Tiraco
718-275-2474
Telephone Number

Emergency Ballot Matter
June 20, 2012

In this paper, I ask the court to reduce the overall minimum number of signatures needed to obtain the Independence Party ballot line for congressional candidates enrolled in the Independence Party. I also set forth the rationale of why a fifteen percent reduction in the required number of petitions is the fair and proper number to cut. And, show how I was harmed by the New York State Board of Elections, and their local affiliate by their failure to share information that would have increased the amount of petitions submitted on my behalf beyond the minimum requirement set by the Board for the May 1, 2012 hearing.

First: The State of New York's so-called bipartisan election agencies are manifested in a network of local boards of elections with their administration vested in the New York State Board of Elections. In reality, the system charged with the preservation of citizen confidence in the democratic process and enhancement in voter participation in elections is a statewide political pork-barrel with the unspoken primary mission of maintaining incumbent public officials in office. The New York State Board of Elections is a creation of the state legislature, staffed at the suggestion of party bosses, and expected to maintain the political status quo. The state's 99 percent reelection rate is directly attributable to this body of clearly defined partisans.

Second: My candidacy is an insurgency opposed by Independence, Democratic, and Republican Party bosses. The Democratic Party is taking advantage of the investigation into the Independence Party for impropriety – the seizure of the Party treasury to repay Mayor Bloomberg's 1.2 million dollar re-election campaign cash allegedly misappropriated by Party officials, and the impending threat of indictments - using the

incident to grab the Independence ballot line as an auxiliary ballot line for Democrats; without the consent of, or due process for the Party's 450,000 enrolled voters.

Democrats dominated the Independence Party ballot line for 2010 and 2011; and are yanking even harder on the leash for the 2012 election. At the moment, the Democrats control the investigation and hence exercise undue influence in Independence Party decisions, while the Republicans still maintain the ability to cherry-pick key Wilson-Pakulas. In response, an independent movement within the Independence Party called "Occupy A Ballot Line" has spawned my candidacy.

Third: On the first day to circulate petitions within the newly drawn 6th Congressional District, I requested the following **VITAL** information from the New York State Board of Elections:

- A map of the district.
- Independence Party Enrollment book for the district.
- Independence Party Enrollment on electronic media for the district.
- How many Independence Party enrolled voters were in the district?
- How many signatures would I need to qualify for the ballot?
- What Assembly Districts were within the new 6th CD?

I received the same answer to every question preceded by the same apologetic prefix: "We are sorry but . . ."

- there is no map of the district, and one is not expected before mid-May.
- there is no Independence Party Enrollment book for the district, and one is not expected before mid-May.
- there is no Independence Party Enrollment on electronic media for the district, and one is not expected before mid-May.

- we do not know how many Independence Party enrolled voters are in the district, and may not know the number before mid-May.
- we do not know how many signatures you would need to qualify for the ballot, and we may not know the number before mid-May.
- we do not know what Assembly Districts are within the new 6th CD, and may not know the ADs until mid-May.

I made the same information requests several times a week throughout the entire petitioning period and did not receive the requested information or materials or a response other than “not before mid-May.” The actual number of signatures needed to qualify for the ballot was never revealed to me until after my petitions were filed and a clerk's report containing the qualification number was automatically generated.

Fourth: A graphic image of the 6th Congressional District was downloaded from a television news station website, and re-sized to approximately fit over an old phone book map of Queens. This served as the district map in lieu of a NYS Board of Elections district map containing both the ADs and EDs. The petition carriers used photo copies of Independence Party enrollment information made from a book marked “March 2011” but it was actually a minor update generated after the 2010 election. Of all the garbled and missing information, the lack of up-to-date Independence Party voter enrollment information is the crux of my argument. How can the New York State Board of Elections, fully equipped with many millions of dollars of computers, in this the second decade of the Twenty-First Century, claim the inability to provide accurate and timely information within the circumscribed area of their expertise? Tales of their herculean task is merely foot dragging for the purpose of political expediency. The information I needed was available at the touch of a button; they chose not to push that button; they chose to engineer failure rather than risk success; they chose the party bosses over the candidate; they chose to wipe me out.

Fifth: The 532 petitions filed for my candidacy clearly demonstrate the strong desire of Independence Party enrolled voters to place one of their own on the congressional ballot for the 2012 election cycle. In order to collect this number of signatures, thousands of doorbells had to be rung by petition carriers moving door to door and ED to ED on foot, giving a short entreaty on behalf of the candidate to the voter at his or her front door and soliciting their support in the form of a signature. Unlike the minority parties, the Democrats and Republicans can gather their signatures in large street campaigns, the Independence Party petitioning process is a more personal door to door grassroots endeavor. My petition carriers reported that one in every four doorbell rings was a wasted effort, that is, the person listed in the enrollment book no longer lived at the address, or had changed their political affiliation. If my carriers had been provided with up-to-date enrollment listings, their level of productivity would have significantly increased. New York State's election apparat failed to perform in accordance with the role they are charged with in the election process when lack of performance was in their interest. Over the life of the petitioning campaign, they cost me far more then the 35 signature shortfall that denied me a place on the Independence Party ballot line.

Sixth: In considering the revised number of signatures to place a candidate on the Independence Party ballot, I point to the following; too large and the decision becomes too broad and meaningless; too small and the intent of the petition process becomes meaningless. This delicate balance becomes apparent in the method of petitioning: The majority parties (Democrats and Republicans) gather their signatures in large street campaigns, the Independence Party uses a door to door grassroots approach. While the petition quotas allotted to the parties is an artifice in itself inherently unfair, less then 1% for Democrats and 3.75% for Independence, I cite the numbers merely to demonstrate the arbitrary nature of the entire process. A petition signature is often the only ballot shaping opportunity an Independence Party voter gets; Because there is the Open

Primary rule favoring party bosses and Wilson-Pakula armed majority party candidates. The Independence Party Open Primary allows all non-aligned voters, the largest block of voters in the state to vote. Large campaigns simultaneously conducted by multiple Democrats using the vast resources of a dominant party scoop up great numbers of non-aligns which they simply walk to the catch-all voting booth marked Independence saying, "you can vote for us here" completely obliterating the comparatively tiny Independence Party enrollment. Any intent the minority party voter may have for reform is vitiated by the incidental overflow of non-aligns drawn by bright lights and glitter to the Democratic Party primary.

Seventh: In considering punitive damages, notice that my candidacy is currently derailed; every day that goes by my rivals advance in the race while my voice remains muted, my message goes unspoken, and my opportunity to compete slowly evaporates; the state sponsored policy of treating minority party candidates as ruderal sprigs to trample underfoot remains in place.